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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TSUNGAI TUNGWARARA,) No. C 04-2144 EDL
Plaintiff,) E-filing Case
v.) ORDER GRANTING
UNITED STATES OF AMERICA, et al.) DEFENDANT'S EX PARTE MOTION
Defendant.) SEEKING COURT'S APPROVAL TO
) FILE ADDITIONAL AUTHORITY
Date: February 14, 2006
Time: 9:00 a.m.
Courtroom E, 15th Floor

Pursuant to Civil L. R. 7-3(d), the Federal Defendant seeks the Court's approval to file the additional authority – *Welch v. United States*, 409 F.3d 646 (4th Cir. 2005). A copy of the decision is attached as Exhibit A.

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Counsel for the Federal Defendant discovered the case after the filing of the reply brief and brings the case to the Court’s attention because jurisdictional challenges can be raised at any time, even for the first time on appeal. *United States v. Cotton*, 535 U.S. 625, 630, 122 S.Ct. 1781 (2002); *Kuntz v. Lamar Corp.*, 385 F.3d 1177, 1181 (9th Cir. 2004).

Respectfully submitted,

KEVIN V. RYAN
United States Attorney

Dated: February 8, 2006

/s/

ANDREW Y.S. CHENG
KATHERINE B. DOWLING
Assistant United States Attorneys

IT IS SO ORDERED

DATED: February 13, 2006

